IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1112 of 1996

in

SPECIAL CIVIL APPLICATION No 4794 of 1982

Date of Decision: 28-4-2004

DHIRAJLAL B PATEL

Versus

STATE OF GUJARAT

(for full cause title, see next sheet)

Coram:

The Hon'ble Mr.Justice Bhawani Singh, Chief Justice

The Hon'ble Mr.Justice H.K.Rathod, Judge

Whether approved for reporting?

For the Appellant Mr.Mehul S. Shah, Adv.

For the Respondent Mr.R.C.Kodekar, AGP

PER: BHAWANI SINGH, CHIEF JUSTICE (ORAL):-

#. Through this Appeal, judgment of Single Judge dated 9.9.1996 passed in Special Civil Application No.4794 of 1982 has been assailed.

#. Shortly stated, the appellant (original petitioner) was appointed Demonstrator, Botanical Garden Division of

Government Ayurvedic Pharmacy College at Rajpipla, vide

Whether reporters of Local Papers may be allowed to see the Judgment?

order dated 9.8.1974. This appointment has been made under the Demonstrator (Government Ayurvedic Pharmacy College) Recruitment Rules, 1974. Through Government Resolution dated October 5, 1981, three categories of teaching posts in Government Ayurvedic Colleges, Demonstrator, Lecturer, Reader, have been upgraded with immediate effect, meaning thereby, from existing pay-scales to revised pay-scales. Thereafter, vide Resolution dated October 19/22, 1981, posts of Demonstrators and Lecturers have been classified Class-II posts and those of Readers, Class-I. Again, by Government Resolution dated April 21, 1982, it is clarified that Government Ayurvedic Pharmacy College at Rajpipla is a Government Ayurvedic College and does not belong to any other system of medicine and the posts of Demonstrators, Lecturers and Readers of the Government Ayurvedic Pharmacy College, Rajpipla, stood upgraded with effect from October 5, 1981. The respondents did not extend the relief of upgradation to the appellant despite repeated demands. Therefore, he challenged this inaction through Special Civil Application No.4794 of 1982. However, by the impugned judgment, claim has been rejected on the ground that the post of Demonstrator is not a teaching post, thereby accepting the contention of the respondents to that effect.

#. Shri Mehul S.Shah, learned counsel for the appellant, contends that the post of Demonstrator held by the appellant in Government Ayurvedic Pharmacy College, Rajpipla, is a teaching post which is clearly demonstrated not only by certificate of Principal of the College dated January 21, 1980 but also by order of appointment dated August 9, 1974, Government Resolution dated October 5, 1981, clarification dated 19/22 October, 1981, etc.

Shri R.C.Kodekar, learned Assistant Government Pleader, reiterates the submissions, once raised before Single Judge, that the appellant does not hold teaching post. Post of Vaidya was converted into the post of Demonstrator and the appellant works in Botanical Division of Government Ayurvedic Pharmacy College, Rajpipla, therefore, the appellant cannot seek upgradation to higher scale and claim is liable to be dismissed.

#. Giving thoughtful considerations to the matter, it is absolutely clear from the appointment order of the appellant dated August 9, 1974, that he has been appointed in Government Ayurvedic Pharmacy College, Rajpipla. There is no dispute that he has been appointed under the Demonstrator (Government Ayurvedic Pharmacy College) Recruitment Rules, 1974. The Government Resolution dated October 5, 1981, further envisages that teaching posts of categories, Demonstrator, Lecturers and Readers have been upgraded. Posts of Demonstrators and Lecturers have been classified Class-II and those of Readers, Class I, vide Government Resolution dated October 19/22, 1981. Upgradation of posts of Demonstrators, Lecturers and Readers is further clarified and reiterated vide Resolution dated April 21, 1981. The affidavit-in-reply of Shri S.V.Jatkar, Administrative Officer of Directorate of Indian Systems of medicine and Homoeopathy, clearly mentions that isolated post originally sanctioned as "Vaidya" has been converted to the post of Demonstrator. Nowhere it has been stated or even suggested that in Government Ayurvedic Pharmacy College, Rajpipla, there existed more than one post. Therefore, all the roads are joining the same place, namely, there is only one post of Demonstrator in Government Ayurvedic Pharmacy College, Rajpipla and this post has been held by the appellant. It may be a different thing that he has been asked to teach in the class sometimes as stated by the Principal in his certificate and other times at the farm, but the fact remains that he was in the category of teacher and Botanical Division was unit of the college. Generally, it is considered that teacher/ lecturer is one who teaches in the class. This is not the sole criterion. Even teachers/ lecturers can teach at the farm by way of demonstration to the students. Farm Scientists of farms/ agricultural/ horticultural universities not only teach in classes but also teach at the farms. Similarly, Demonstrators may be assigned duty at the farm/ botanical garden or may be asked to teach in the class. Demonstrator's teaching by demonstration at the farm/ botanical garden is sometimes better than the teaching in the class room.

According to Black's Law Dictionary (Sixth Edition), Page 432, `Demonstrate' means, "to teach by exhibition of samples; to derive from admitted premises by steps of reasoning which admit of no doubt; to prove indubitably. To show or prove value or merits by operation, reasoning, or evidence". According to Concise Oxford English Dictionary (Tenth Edition, Revised), Page 381, `Demonstrate' means, "1. clearly show the existence

or truth of, give a practical exhibition and explanation of. . ." .

#. Irresistible conclusion therefore is that the appellant holding teaching post, therefore, he is entitled to benefit of Government Resolutions dated October 5, 1981, October 19/22, 1981, and April 21, 1982, and interpretation/ decisions to the contrary are erroneous.

No other point was urged.

Consequently, the Letters Patent Appeal is allowed, impugned judgment dated 9.9.1996 is set aside, the respondents are directed to give benefit of Government Resolutions dated October 5, 1981, October 19/22, 1981, and April 21, 1982. The respondents will refix the emoluments, salary of the appellant in the upgraded pay scale and extend him all consequential benefits within a period of three months. Costs on parties.

(BHAWANI SINGH)
CHIEF JUSTICE

(H.K.RATHOD)
JUDGE
(sunil)